

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2176

Introduced by Assembly Member Blumenfield

February 18, 2010

An act to add Article 10.03 (commencing with Section 25210.13) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2176, as amended, Blumenfield. Hazardous waste: lighting products.

Existing

(1) Existing law, the California Lighting Efficiency and Toxics Reduction Act, administered by the Department of Toxic Substances Control, prohibits a person from manufacturing for sale or selling in the state specified general purpose lights that contain levels of hazardous substances prohibited by the European Union pursuant to the RoHS Directive. A violation of the hazardous waste control law is a crime.

~~This bill would declare the intent of the Legislature to enact subsequent legislation to provide for the California Lighting Toxics Reduction and Recycling Act.~~

This bill would enact the California Lighting Toxics Reduction and Jobs Act and would define terms, including defining a "class 1 lamp" as a lamp containing mercury and a "class 2 lamp" as a lamp that produces less than a specified amount of light per watt.

The bill would require the producer of a class 1 lamp, by September 30, 2011, to submit a product stewardship plan with regard to the collection of class 1 lamps to the department, either individually or

jointly with other producers, or by entering into an agreement with a stewardship organization. The bill would require the plan to require the recycling of all class 1 lamps sold by a producer on and after January 1, 2020. The department would be required to approve the plan pursuant to a specified procedure and the producer would be required to implement the approved plan by January 1, 2012. The bill would provide for the updating of the plan and would require the plan operator, by April 1, 2013, and on or before each April 1 annually thereafter, to prepare and submit to the department a report for the immediately preceding reporting period.

The bill would require an entity submitting a plan to enter into an agreement with the department to pay the costs incurred by the department associated with the review and enforcement of the plan. The bill would require the funds to be deposited in the Lighting Product Stewardship Subaccount, which the bill would establish in the Hazardous Waste Control Account, and would authorize the department to expend the funds in the Lighting Product Stewardship Subaccount, upon appropriation by the Legislature, for those costs.

The bill would require the producer of a class 2 lamp, by January 1, 2014, and on or before January 1 annually thereafter, to pay to the commission a fee in an amount established by the commission pursuant to a specified procedure. The commission would be required to deposit the fee revenues in the Energy Efficiency Research Fund, which the bill would create in the State Treasury, and the commission would be authorized to expend the funds in the Energy Efficiency Research Fund, upon appropriation by the Legislature, for specified research and projects relating to improving class 2 lamps' lighting efficiency and reducing toxic impacts from lighting technologies used by class 2 lamps.

The bill would prohibit a producer, wholesaler, or retailer from selling or offering for sale a class 1 lamp or class 2 lamp to a person in this state on and after January 1, 2012, unless, with regard to the class 1 lamp, the producer is participating in a product stewardship program, or, on or after January 1, 2014, with regard to a class 2 lamp, unless the producer has paid the required fee. The bill would also specify procedures for the enforcement of the act. Since a violation of the hazardous waste control laws is a crime, the bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares all of the*
2 *following:*

3 (a) *The state's policy, including the California Lighting*
4 *Efficiency and Toxics Reduction Act, which added Article 10.02*
5 *(commencing with Section 25210.9) to Chapter 6.5 of Division 20*
6 *of the Health and Safety Code, has put the state on a path of*
7 *transition to more energy-efficient lighting, including substantially*
8 *increased utilization of fluorescent lighting.*

9 (b) *Lighting products introduce hazardous waste into the*
10 *environment by containing hazardous substances, such as mercury,*
11 *in the lighting product itself, and by the release of hazardous*
12 *substances from the production of energy, which the lighting*
13 *product utilizes.*

14 (c) *Electricity generation, particularly from coal, releases*
15 *mercury into the atmosphere, which contaminates waterways and*
16 *fish, causing a public health risk.*

17 (d) *The less efficient a lamp is, the more hazardous waste,*
18 *including mercury, is released into the atmosphere from the*
19 *electricity generation associated with its use.*

20 (e) *High-efficiency bulbs, such as compact fluorescent lamps,*
21 *contain mercury within the product but because these bulbs use*
22 *less energy, they are responsible for smaller hazardous emissions*
23 *from energy production.*

24 (f) *Low-efficiency bulbs, such as incandescent bulbs, contain*
25 *no mercury but are responsible for greater hazardous substance*
26 *emissions from energy production.*

27 (g) *The state prohibits the disposal of lighting products*
28 *containing hazardous levels of metal in the solid waste stream.*

29 (h) *The hazardous waste generated by waste lighting products*
30 *can be reduced and managed through recycling, but recycling*

1 *opportunities are currently inconvenient or nonexistent for most*
2 *consumers.*

3 *(i) Even though some types of fluorescent lighting products*
4 *deliver the same level of light at the same level of efficiency as*
5 *other types of these products, they may have varying levels of*
6 *mercury. The Department of General Services has adopted a*
7 *procurement preference favoring low-mercury fluorescent lamps.*

8 *(j) In 2007, the Legislature enacted the California Lighting*
9 *Efficiency and Toxics Reduction Act which directed the Department*
10 *of Toxic Substances Control to convene a lighting task force to*
11 *consider and make policy recommendations to the Legislature for*
12 *designing a statewide collection program for end-of-life fluorescent*
13 *lamps.*

14 *(k) On September 1, 2008, the task force submitted*
15 *recommendations to the Legislature on the need and options for*
16 *a convenient statewide system for the collection and recycling of*
17 *fluorescent lamps for residential generators.*

18 *(l) The purpose of this act is to establish a system for the*
19 *recycling of fluorescent lamps generated by households and small*
20 *businesses that is free and convenient for end users and to promote*
21 *the rapid development and uptake of more efficient and low-toxicity*
22 *lighting products to minimize the public health impacts from*
23 *lighting.*

24 *(m) The responsibility for the end-of-life management of*
25 *products and materials rests primarily with the producers who*
26 *designed and profited from the product, thereby incorporating life*
27 *cycle costs into the total product costs to reduce the impact on the*
28 *taxpayers and ratepayers of the state and reduce the impact on*
29 *human health and the environment.*

30 *(n) (1) The imposition of the fee pursuant to Section 25210.20*
31 *of the Health and Safety Code would not result in the imposition*
32 *of a tax within the meaning of Article XIII A of the California*
33 *Constitution because the amount and nature of the fee have a fair*
34 *and reasonable relationship to the environmental, public health,*
35 *and societal burdens imposed by the use of inefficient lamps and*
36 *there is a sufficient nexus between the fees imposed and the use of*
37 *those fees to support programs.*

38 *(2) There is a clear nexus between the type and the amount of*
39 *the fees imposed pursuant to this act and the environmental, public*
40 *health, and societal costs resulting from inefficient lamps.*

1 (3) *It is the intent of the Legislature that the fees imposed*
2 *pursuant to Section 25210.20 of the Health and Safety Code be*
3 *consistent with the California Supreme Court's decision in Sinclair*
4 *Paint. Co. v. State Bd. of Equalization (1997) 15 Cal.4th 866.*

5 SEC. 2. *Article 10.03 (commencing with Section 25210.13) is*
6 *added to Chapter 6.5 of Division 20 of the Health and Safety Code,*
7 *to read:*

8
9 Article 10.03. *California Lighting Toxics Reduction and Jobs*
10 *in Recycling Act*
11

12 25210.13. *For the purposes of this article, the following terms*
13 *have the following meanings:*

14 (a) *"Brand" means a name, symbol, word, or mark that*
15 *identifies a product, rather than its components, and attributes the*
16 *product to the owner of the brand as the producer.*

17 (b) *"Commission" means the State Energy Resources*
18 *Conservation and Development Commission.*

19 (c) *"Covered entity" means the end user of a class 1 lamp,*
20 *including, but not limited to, a resident or a small business, that*
21 *delivers not more than 15 class 1 lamps to a collection site or*
22 *service operating pursuant to an approved product stewardship*
23 *program for class 1 lamps.*

24 (d) *"Covered lamp" means all lamps defined under "class 1*
25 *lamps" and "class 2 lamps," either individually or as an item*
26 *within a covered lamp category, including all materials that make*
27 *up the covered product.*

28 (1) *"Class 1 lamp" means a lamp containing mercury.*

29 (2) *"Class 2 lamp" means a lamp that produces fewer than 45*
30 *lumens per watt.*

31 (3) *A lamp that is both a class 1 lamp and a class 2 lamp shall*
32 *be subject to all of the requirements that apply to those lamps.*

33 (e) *"Final disposition" means the point beyond which no further*
34 *processing takes place and materials from a class 1 lamp have*
35 *been transformed for direct use as a feedstock in producing new*
36 *products or disposed of or managed in permitted facilities.*

37 (f) *"Hazardous substance" means a substance that, when*
38 *discarded, is required to be managed as a hazardous waste*
39 *pursuant to this article.*

1 (g) “Lamp” has the same meaning as “general purpose lights,”
2 as defined in Section 25210.10.

3 (h) “Mercury burden” means the amount of mercury contained
4 in a covered lamp, plus the average amount of mercury that is
5 expected to be released into the environment by electrical
6 generation necessary in the use of a covered lamp, including a
7 class 2 lamp, during the course of its useful life.

8 (i) “Plan operator” means a producer who either individually
9 or jointly with other producers, implement the product stewardship
10 program plan approved by the department pursuant to Section
11 25210.16, or, if the producer enters into an agreement with a
12 product stewardship organization to submit the plan, on the
13 producer’s behalf, the product stewardship program that
14 implements the plan approved by the department pursuant to
15 Section 25210.16.

16 (j) “Processing” means recovering material from unwanted
17 products for use as feedstock in new products.

18 (k) “Producer” shall be determined, with regard to a covered
19 lamp, as one of the following:

20 (1) The person who manufactures the covered lamp and who
21 sells, offers for sale, or distributes the product in the state under
22 the manufacturer’s own brand.

23 (2) If there is no person who sells, offers for sale, or distributes
24 the covered lamp in the state under the person’s own name or
25 brand, the producer of the covered lamp is the owner or licensee
26 of a trademark under which a product is sold or distributed in
27 state, whether or not the trademark is registered.

28 (3) If there is no person who is a producer of the covered lamp
29 for purposes of paragraph (1) or (2), the producer of the covered
30 lamp is the person who imports the covered lamp into the state for
31 sale or distribution.

32 (l) “Product stewardship” means the requirement imposed
33 pursuant to this article upon a producer of a class 1 lamp to
34 manage and reduce adverse safety, health, and environmental
35 impacts of the class 1 lamp throughout the life cycle of the covered
36 lamp, including financing and providing for the collection,
37 transporting, reusing, recycling, processing, and final disposition
38 of the class 1 lamp.

1 (m) “Product stewardship plan” or “plan” means the detailed
2 plan prepared pursuant to Section 25210.15 describing the manner
3 in which a product stewardship program will be implemented.

4 (n) “Product stewardship program” or “program” means a
5 program established pursuant to this article pursuant to a product
6 stewardship plan that is financed and managed or provided by the
7 producer of a class 1 lamp and that includes both of the following
8 elements:

9 (1) Product design for source reduction and reuse.

10 (2) Provisions for the collection, transportation, recycling, and
11 disposal of unwanted products.

12 (o) “Recycling” means transforming or remanufacturing
13 unwanted products into usable or marketable materials for use
14 other than landfill disposal or incineration. Recycling does not
15 include energy recovery or energy generation by means of
16 combusting unwanted products with or without other waste.

17 (p) “Reporting period” means the period commencing January
18 1 and ending December 31 in the same calendar year.

19 (q) “Residuals” means nonrecyclable materials left over from
20 processing an unwanted covered product.

21 (r) “Retailer” means a person who offers covered lamps for
22 retail sale, as defined in Section 6007 of the Revenue and Taxation
23 Code, through any means including, but not limited to, remote
24 offerings such as sales outlets, catalogs, or the Internet, but does
25 not include a sale that is a wholesale transaction between a
26 distributor and a retailer.

27 (s) “Reuse” means a change in ownership of a covered lamp
28 or its components, parts, packaging, or shipping materials for use
29 in the same manner and purpose for which it was originally
30 purchased, for use again, as in shipping materials, by the generator
31 of the shipping materials. “Reuse” does not include dismantling
32 of a covered lamp for the purpose of recycling.

33 (t) “Stakeholder” means a person who may have an interest in
34 or be affected by a product stewardship program.

35 (u) “Stewardship organization” is an entity appointed by a
36 producer to act as an agent on behalf of the producer to administer
37 a product stewardship program.

38 (v) “Unwanted product” means a covered lamp that is no longer
39 wanted, has been abandoned or discarded, or is intended to be
40 discarded by its owner.

1 (w) “Wholesale sale” means a sale that is not a retail sale, as
2 defined in Section 6007 of the Revenue and Taxation Code.

3 (x) (1) “Wholesaler” means a person who engages in the sale
4 of covered lamps for resale, in a sale that is a wholesale sale.

5 (2) If a person is a producer of a covered lamp and also a
6 wholesaler, the person shall comply with the provisions of this
7 article that apply to producers.

8 25210.14. (a) This article shall be known, and may be cited,
9 as the California Lighting Toxics Reduction and Jobs in Recycling
10 Act.

11 (b) The Legislature hereby finds and declares that it is the intent
12 of this article to require the recycling of all unwanted class 1 lamps
13 by January 1, 2020, through expanded public education and the
14 development of a comprehensive, safe, and convenient collection
15 system that includes use of residential curbside collection
16 programs, mail-back containers, increased support for household
17 hazardous waste facilities, and a network of additional collection
18 locations.

19 25210.15. (a) On or before September 30, 2011, a producer
20 of a class 1 lamp shall submit a product stewardship program plan
21 to the department in accordance with this section.

22 (b) A producer shall either individually or jointly with other
23 producers, submit a product stewardship program plan pursuant
24 to this section or may enter into an agreement with a stewardship
25 organization to submit, on the producer’s behalf, a product
26 stewardship program pursuant to this section.

27 (c) (1) A producer, a group of producers, or a stewardship
28 organization shall, at least 60 days before submitting a product
29 stewardship plan to the department, consult with stakeholders,
30 including, but not limited to, local governments, utilities, recyclers,
31 haulers, retailers, environmental groups, general public, and others
32 during the development of the plan, solicit stakeholder comments,
33 and attempt to address any stakeholder concerns regarding the
34 plan prior to submittal.

35 (2) The producer, a group of producers, or a stewardship
36 organization shall provide documentation that demonstrates
37 compliance with paragraph (1) when submitting the plan to the
38 department.

39 (d) The product stewardship plan submitted to the department
40 shall include all of the following:

1 *(1) Information, including full contact information, regarding*
2 *all of the following:*

3 *(A) The organization submitting the plan.*

4 *(B) A list of all participating producers and their brands*
5 *including a trademark, if applicable.*

6 *(C) If the program is to be operated by a stewardship*
7 *organization, a description of management, administration, and*
8 *tasks to be performed by the stewardship organization.*

9 *(2) A collection system, including all of the following:*

10 *(A) Location of collection sites and other collection services to*
11 *be used by the program.*

12 *(B) How unwanted products from all covered entities will be*
13 *collected in all cities in the state with populations greater than*
14 *10,000 and in all counties of the state.*

15 *(C) How the collection system will be cost effective, convenient,*
16 *and adequate to serve the needs of all covered entities in both*
17 *urban and rural areas, with consideration given to curbside, mail*
18 *back, and other collection methods.*

19 *(D) How collected unwanted products will be transported to*
20 *processing facilities.*

21 *(3) Educational and outreach efforts, including, but not limited*
22 *to, all of the following:*

23 *(A) A public service announcement promoting the proper*
24 *management for class 1 lamps, which shall include providing a*
25 *copy of the public service announcement to the department and*
26 *posting the public service announcement on the stewardship*
27 *organization or producer's Internet Web site.*

28 *(B) The establishment of a public Internet Web site, which shall*
29 *include the posting of templates of all educational materials on*
30 *the Internet Web site that is in a form and format that can be easily*
31 *downloaded, and providing a link to the Internet Web site to the*
32 *department.*

33 *(C) Methods to engage other stakeholders, such as waste,*
34 *demolition, and lighting retailers and contractors, and appropriate*
35 *state agencies and local governments to secure support and*
36 *participation to encourage the proper management of class 1 lamps*
37 *throughout the state.*

38 *(D) Strategies to work with utilities participating in energy*
39 *conservation programs involving the replacement of old lighting*
40 *technologies for new class 1 lamps and to encourage their*

1 participation in the collection and proper management of class 1
2 lamps. These strategies may include the inclusion of an educational
3 insert in customers' utility bills.

4 (E) Strategies to encourage support and participation by
5 retailers and other outlets to educate consumers on the proper
6 management of class 1 lamps.

7 (4) A processing and disposal system, which shall meet all of
8 the following requirements:

9 (A) All class 1 lamps collected by the system shall be recycled.

10 (B) The mercury and mercury-bearing residuals from recycling
11 of class 1 lamps collected by the system shall be disposed of at a
12 mercury repository, issued a permit pursuant to this chapter, or
13 managed at a hazardous waste facility operating in accordance
14 with this chapter.

15 (C) The plan shall include the locations, permit status, and
16 record of any penalties, violations, or regulatory orders received
17 in the previous five years by processing and disposal facilities
18 proposed to be used by the program, including all downstream
19 processing and disposal facilities handling hazardous waste
20 generated under the program and those involved in the final
21 disposition of the hazardous waste.

22 (D) The processing and disposal system shall collect, free of
23 charge, unwanted class 1 lamps from covered entities for reuse,
24 recycling, processing, and final disposition.

25 (E) The processor of the class 1 lamps subject to the plan shall
26 submit an annual report to the department in a format provided
27 by the department that includes the number and type of class 1
28 lamps received.

29 (F) The processor of the class 1 lamps subject to the plan shall
30 agree to allow the department, or its designee, to inspect, audit,
31 or review audits of processing and disposal facilities used to fulfill
32 the requirements of a product stewardship program.

33 (G) Federal or state prison labor shall not be used for
34 processing class 1 lamps subject to the plan.

35 (5) A description of the financing system to cover the entire
36 product stewardship program, including how costs will be
37 apportioned among, and assessed upon, producers participating
38 in the program. The plan shall require the producer, group of
39 producers, or stewardship organization to pay all administrative
40 and operational costs associated with the program.

1 (6) *Plans to maximize reuse or recycling of packaging or*
2 *shipping materials that may be collected.*

3 (7) *Plans for eliminating or reducing the environmental impacts*
4 *of the covered lamp throughout the product's life cycle.*

5 (8) *Plans to achieve the requirement of recycling all class 1*
6 *lamps that are sold on and after January 1, 2020, by the producer*
7 *or by the group of producers who have entered into the agreement*
8 *with the stewardship organization to submit the plan.*

9 25210.16. (a) *Within 60 days after receiving a proposed*
10 *product stewardship plan pursuant to Section 25210.15, the*
11 *department shall determine whether the plan complies with this*
12 *article.*

13 (b) *If the department approves the plan, the department shall*
14 *notify the applicant of its approval.*

15 (c) *If the department rejects a plan, the department shall notify*
16 *the applicant of its decision and its reasons for rejecting the plan.*
17 *An applicant whose plan has been rejected by the department shall*
18 *submit a revised plan to the department within 60 days after*
19 *receiving notice of the rejection to maintain compliance with this*
20 *article.*

21 (d) *On or before January 1, 2012, a producer shall either*
22 *individually or jointly with other producers, implement the product*
23 *stewardship program plan approved by the department, or, if the*
24 *producer enters into an agreement with a stewardship organization*
25 *to submit the plan, on the producer's behalf, the product*
26 *stewardship program shall, on or before January 1, 2012,*
27 *implement the plan approved by the department pursuant to this*
28 *section.*

29 25210.17. (a) *At least once every four years, the plan operator*
30 *shall update the product stewardship plan approved by the*
31 *department pursuant to Section 25205.16 and shall submit the*
32 *updated plan to the department for review.*

33 (b) *The department shall determine the status of an updated*
34 *plan within 60 days of its submittal. If the department rejects an*
35 *updated plan, the department shall notify the plan operator, who*
36 *shall resubmit the plan within 60 days of that notification. If the*
37 *plan is not resubmitted within that time period, the plan operator*
38 *and the producer subject to the plan shall be deemed in violation*
39 *of this article.*

1 (c) A proposed change to a product stewardship plan shall be
2 submitted to the department for approval, except for the following:

3 (1) Additions or changes to collection locations for unwanted
4 products.

5 (2) Additions of producers to a product stewardship program.

6 (d) The plan operator shall inform the department of changes
7 specified in subdivision (c) no more than 15 days before the
8 changes occur.

9 25210.18. (a) On or before April 1, 2013, and on or before
10 each April 1 annually thereafter, the plan operator shall prepare
11 and submit to the department a report for the immediately
12 preceding reporting period describing all of the following:

13 (1) Information, including full contact information, regarding
14 all of the following:

15 (A) The organization submitting the report.

16 (B) A list of all participating producers and their brands and
17 trademarks, if applicable.

18 (2) The recovery rates of the class 1 lamps subject to the plan,
19 including both of the following:

20 (A) The amount, by weight, of unwanted class 1 lamps collected
21 from covered entities in each county in the state, including
22 documented collection and recycling or disposal of that material.

23 (B) Progress toward achieving the requirement of recycling
24 100 percent of the class 1 lamps sold by the producer or group of
25 producers on and after January 1, 2020, as stated in paragraph
26 (8) of subdivision (d) of Section 25210.15, and what actions the
27 plan operator will take during the next reported period to ensure
28 attainment of that requirement, including how it will increase and
29 improve effective and measurable outreach and education efforts.

30 (3) The collection system, including collection locations and
31 services provided for all cities in the state with populations greater
32 than 10,000 and in all counties in the state.

33 (4) The processing and disposal system, including all of the
34 following:

35 (A) A list of processing and disposal facilities used and
36 locations, the weight of unwanted products processed at each
37 processing facility and disposed at each disposal facility, and a
38 description of the methods used at each processing facility.

39 (B) A list of subcontractors and full contact information that
40 process or dispose of the unwanted products under the plan,

1 *including the subcontractors providing for the final disposition of*
2 *any hazardous waste, and subcontractor facility locations.*

3 *(C) Final disposition of residuals.*

4 *(D) Any penalties, violations, or regulatory orders received*
5 *during the reporting period by each processing facility or disposal*
6 *facility that was used to implement the plan.*

7 *(E) Whether policies and procedures in the product stewardship*
8 *plan for collecting, transporting, processing, and final disposition*
9 *of unwanted products were followed during the reporting period,*
10 *and a description of any noncompliance.*

11 *(5) The financing system, including a description of how the*
12 *system met the requirements of the plan specified in paragraph*
13 *(5) of subdivision (d) of Section 25210.15.*

14 *(6) The education and outreach activities implemented during*
15 *the reporting period, including an analysis of the effectiveness of*
16 *the education and outreach activities.*

17 *(7) How the product stewardship program complied with any*
18 *other elements in the plan.*

19 *(8) Costs associated with the recovery of unwanted product and*
20 *total and per pound costs.*

21 *(9) Any other information that the department may require.*

22 *(b) All reports submitted to the department shall be made*
23 *available to the public on the department's Internet Web site and*
24 *at the department's headquarters.*

25 *(c) Based on the reports submitted pursuant to this section, the*
26 *department shall calculate the average mercury burden of all class*
27 *1 lamps and the average cost associated with that recovery and*
28 *shall provide that information annually to the commission.*

29 *25210.19. (a) A producer, a group of producers, or a*
30 *stewardship organization that submits a plan to the department*
31 *shall enter into an agreement with the department to pay the*
32 *department for the costs incurred by the department associated*
33 *with the review of the product stewardship plan, including the*
34 *implementation and enforcement of the plan.*

35 *(b) The department shall deposit the amounts paid pursuant to*
36 *this section into the Lighting Product Stewardship Subaccount,*
37 *which is hereby established in the Hazardous Waste Control*
38 *Account and which may be expended by the department, upon*
39 *appropriation by the Legislature, for the costs specified in*
40 *subdivision (a).*

1 25210.20. (a) On or before January 1, 2014, and on or before
2 January 1 annually thereafter, a producer of a class 2 lamp shall
3 pay to the commission the fee established by the commission
4 pursuant to this section.

5 (1) The commission shall determine the amount of the fee based
6 on the mercury burden of class 2 lamps sold by the producer in
7 the state, relative to the average mercury burden of compact
8 fluorescent lamps and the average cost per compact fluorescent
9 lamp paid by the producers of class 1 lamps for the product
10 stewardship program and reported to the department, as required
11 under this article.

12 (2) On or before June 30, 2012, based on the determination
13 made pursuant to paragraph (1), the commission shall adopt
14 regulations that determine the amount of the fee to be submitted
15 to the commission by each producer of class 2 lamps. The
16 regulations shall require the commission to set the amount of the
17 payment at a level necessary to provide sufficient funds to
18 implement this section, including administrative costs.

19 (b) The commission shall deposit all fee revenues collected
20 pursuant to this section in the Energy Efficiency Research Fund,
21 which is hereby created in the State Treasury.

22 (c) The funds in the Energy Efficiency Research Fund may be
23 expended by the commission, upon appropriation by the
24 Legislature, to provide grants, based on an annual competitive
25 solicitation, for all the following purposes:

26 (1) Research to improve the lighting efficiency of class 2 lamps.

27 (2) Research to reduce toxic impacts from lighting technologies
28 used by class 2 lamps.

29 (3) Projects to reduce, remediate, and mitigate the impact of
30 class 2 lamps on public health.

31 (d) The commission shall provide information on compliance
32 with this section as necessary to the department for the purpose
33 of enforcement of this article.

34 25210.21. (a) On or before January 1, 2012, the department
35 shall issue a report concerning the status of the collective product
36 stewardship programs and post the report on the department's
37 Internet Web site.

38 (b) On or before October 1, 2013, and on or before October 1
39 annually thereafter, the department shall do both of the following:

1 (1) Invite comments from local governments, communities, and
2 citizens to report their satisfaction with services provided by
3 product stewardship programs. The department shall use this
4 information to determine if the plan operator is meeting the plan's
5 requirements and in reviewing the proposed updates or changes
6 to product stewardship plans.

7 (2) Invite comments from retailers, consumer groups, electric
8 utilities, and other interested parties regarding the impact of this
9 article on the availability and purchase of energy efficient lighting
10 within the state. If the department determines that evidence shows
11 the requirements of this article have resulted in negative impacts
12 on the availability or purchase of energy efficient lighting in the
13 state, notwithstanding Section 10231.5 of the Government Code,
14 the department shall report this information by January 1 of each
15 year to the appropriate committees of the Legislature, including
16 recommendations for changes to this article.

17 25210.22. (a) Except as provided in subdivision (f), on and
18 after January 1, 2012, a producer, wholesaler, or retailer shall
19 not sell or offer for sale a class 1 lamp to a person in this state
20 unless the producer of that class 1 lamp is participating in a
21 product stewardship program under a plan approved by the
22 department.

23 (b) Except as provided in subdivision (f), on and after January
24 1, 2014, a producer, wholesaler, or retailer shall not sell or offer
25 for sale a class 2 lamp to a person in this state unless the producer
26 of that class 2 lamp has paid the fee required by Section 25250.20.

27 (c) The department shall provide, on its Internet Web site, lists
28 of all of the following:

29 (1) All producers of class 1 lamps participating in an approved
30 product stewardship program.

31 (2) All producers of class 2 lamps that have paid the fee imposed
32 pursuant to Section 25201.20.

33 (3) All producers identified by the department as noncompliant
34 with this article and the regulations adopted to implement this
35 article.

36 (d) On July 1, 2012, and on January 1 and July 1 annually
37 thereafter, the department shall post on its Internet Web site
38 producers of covered lamps that are not in compliance with this
39 article.

1 (e) A wholesaler or a retailer that distributes covered lamps
2 shall monitor the department's Internet Web site to determine if
3 a producer's lamps are in compliance with this article.

4 (f) (1) A person primarily engaged in the business of reuse and
5 resale of a used product is not subject to this article with regard
6 to the sale of a used working covered product, for use in the same
7 manner and purpose for which it was originally purchased.

8 (2) A covered product that is owned by a retailer on January
9 1, 2012, is not subject to this section and the retailer may exhaust
10 that existing stock through sales to the public.

11 25210.23. (a) The department shall send a written notification
12 to a retailer known to be selling a product in the state from a
13 producer or wholesaler who is not in compliance with this article.

14 (b) A retailer that removes from sale any covered lamp within
15 90 days of discovery that it is not in compliance with this article
16 shall not be in violation of this section.

17 25210.24. (a) If, after holding a public hearing, the department
18 finds that a producer has failed to make a good faith effort to
19 comply with this article, including, but not limited to, failing to
20 submit or implement a plan pursuant to Section 25210.15, the
21 department shall issue a compliance order with a schedule for
22 achieving compliance.

23 (b) Prior to enforcing any penalty pursuant to this article, the
24 department shall issue a compliance order to the producer or
25 retailer selling the covered lamp, allowing 30 days from the date
26 of the compliance order to cease sales of the covered lamps.

27 25210.25. This article does not limit, supersede, duplicate, or
28 otherwise conflict with the authority of the department under
29 Section 25257.1 to fully implement Article 14 (commencing with
30 Section 25251) , including the authority of the department to
31 include mercury-containing lamps in its mercury-containing lamps
32 registry.

33 SEC. 3. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within

1 *the meaning of Section 6 of Article XIII B of the California*
2 *Constitution.*

3 ~~SECTION 1. The Legislature finds and declares all of the~~
4 ~~following:~~

5 ~~(a) The state's policy, including the California Lighting~~
6 ~~Efficiency and Toxics Reduction Act, which added Article 10.02~~
7 ~~(commencing with Section 25210.9) to Chapter 6.5 of Division~~
8 ~~20 of the Health and Safety Code, has put the state on a path of~~
9 ~~transitioning toward more energy-efficient lighting, including~~
10 ~~substantially increased utilization of fluorescent lighting.~~

11 ~~(b) Lighting products introduce hazardous waste into the~~
12 ~~environment as it may contain such hazardous substances as~~
13 ~~mercury, in the lighting product itself, and by the release of~~
14 ~~hazardous substances from the production of energy, which the~~
15 ~~lighting product utilizes.~~

16 ~~(c) High-efficiency bulbs, such as compact fluorescent lamps,~~
17 ~~contain mercury within the product, but because these bulbs use~~
18 ~~less energy, they are responsible for smaller hazardous emissions~~
19 ~~from energy production.~~

20 ~~(d) Low-efficiency bulbs, such as incandescent bulbs, contain~~
21 ~~no mercury in the product but are responsible for greater hazardous~~
22 ~~substance emissions from energy production.~~

23 ~~(e) The state prohibits the disposal of lighting products~~
24 ~~containing hazardous levels of metal in the solid waste stream.~~

25 ~~(f) The hazardous waste generated by waste lighting products~~
26 ~~can be reduced and managed through recycling, but recycling~~
27 ~~opportunities are currently inconvenient or nonexistent for most~~
28 ~~consumers.~~

29 ~~(g) Even though some types of fluorescent lighting products~~
30 ~~deliver the same level of light at the same level of efficiency as~~
31 ~~other types of these products, they may have varying levels of~~
32 ~~mercury. The Department of General Services has adopted a~~
33 ~~procurement preference favoring low-mercury fluorescent lamps.~~

34 ~~(h) In 2007, the Legislature enacted the California Lighting~~
35 ~~Efficiency and Toxics Reduction Act, which directed the~~
36 ~~Department of Toxic Substances Control to convene a lighting~~
37 ~~task force to consider and make policy recommendations to the~~
38 ~~Legislature for designing a statewide collection program for~~
39 ~~end-of-life fluorescent lights.~~

1 (i) On September 1, 2008, the task force submitted
2 recommendations to the Legislature on the need and options for a
3 convenient statewide system for the collection and recycling of
4 fluorescent lamps for residential generators.

5 (j) Electricity generation, particularly from coal, releases
6 mercury into the atmosphere, which then contaminates waterways
7 and fish, causing a public health risk.

8 (k) The more electricity required by a bulb, the greater the level
9 of hazardous waste, including mercury, from electricity generation
10 associated with its use.

11 (l) The purpose of this act is to establish a system for the
12 recycling of fluorescent lamps generated by households and small
13 businesses that is free and convenient for end users and to promote
14 the rapid development and uptake of more efficient and
15 low-toxicity lighting products to minimize the public health impacts
16 from lighting.

17 (m) The responsibility for the end-of-life management of
18 products and materials rests primarily with the producers who
19 designed and profited from the product, so incorporating life-cycle
20 costs into the total product costs will reduce the impact of these
21 products on the taxpayers and ratepayers of the state and reduce
22 the impact of these products on human health and the environment.

23 SEC. 2. Article 10.03 (commencing with Section 25210.13)
24 is added to Chapter 6.5 of Division 20 of the Health and Safety
25 Code, to read:

26
27 Article 10.03. California Lighting Toxics Reduction and
28 Recycling Act
29

30 25210.13. The Legislature declares its intent to enact
31 subsequent legislation to provide for the California Lighting Toxics
32 Reduction and Recycling Act.